

INDIAN TRIATHLON FEDERATIONRY AND ANR. ETC. A

v.

PONDY TRIATHLON ASSOCIATION AND ORS. ETC.

JANUARY 13, 1997

[K. RAMASWAMY AND G.T. NANAVATI, JJ.] B

*Constitution of India, 1950 : Article 136—Special Leave Petition—Filed directly against the order of Assistant Judge City Civil Court—Thereafter appeal filed before Principal Judge, City Civil Court—Held in such circumstance question of granting leave and considering the matter on merit does not arise—Accordingly special leave petition dismissed as withdrawn.* C

*India Olympic Association Rules : Rule 19.*

*Dispute as to membership, disqualification etc.—Dispute referred to Arbitrator under the Rules—Therefore the appeal pending in the City Civil Court, Madras cannot be ordered to be transferred to the Arbitration Board as it has no jurisdiction to decide the correctness of the declaratory decree—Instead, the Principal Judge, City Civil Court, Madras should dispose of the appeal on merits—The award shall be placed before the principal Judge to be taken on record in the pending appeal as additional evidence.* D E

CIVIL ORIGINAL JURISDICTION : Transfer Petition (C) No. 794 of 1996. Etc.

Under Article 139A(1)/(2) of the Constitution of India.

R.K. Jain, Manoj Goel, Brij Bhushan, Ms. Abha R. Sharma for the Petitioners. F

R.F. Nariman, Rajan Romani, R.N. Karanjawala, Ms. Karanjawala, Ms. Ruby Ahuja, Ranjit Kumar, Yatish Mohan and Ms. Anu Mohla for the Respondents. G

The following Order of the Court was delivered :

T.P. (C) 749/96.

The transfer petition is dismissed as withdrawn. H

A *SLP (C) No. 1527 of 1997.*

This petition seeking leave of this Court to file appeal has been filed directly against the order dated March 5, 1996 passed by the First Assistant Judge, City Civil Court, Madras in Original Suit No. 540 of 1996. We are informed that an appeal against the decree has already been filed before the Principal Judge, City Civil Court, Madras. Under these circumstances, the question of granting leave and considering the matter on merits by this Court does not now survive. Learned counsel seeks to withdraw the special leave petition.

C The special leave petition, under the circumstances, is dismissed as withdrawn.

*T.P. (C) 13/97.*

D In relation to the dispute as to the membership disqualification etc. by our order dated November 8, 1996 all the disputes were referred to the arbitrators in terms of Rule 19 of the Indian Olympics Association Rules extracted in that order. Pursuant thereto, the disputes stood referred to the arbitrators. Under the circumstances, the appeal bearing S.R. No. 47145 of 1996 pending in the City Civil Court, Madras cannot be ordered to be transferred to the Arbitration Board as it has no jurisdiction to decide the correctness of the declaratory decree. Instead, the Principal Judge, City Civil Court, Madras should dispose of the Appeal on merits. We think that the appropriate procedure would be that as soon as the arbitrators decide the dispute, the award shall be placed before the Principal Judge, City Civil Court, Madras to be taken on record in the pending appeal as additional evidence under Order XLI, Rule 27 of the Code of Civil Procedure, 1908. It would be open to the parties to raise all their contentions *de hors* the amendment of their pleadings and the Principal Judge is directed to consider and dispose of the disputes in the light of the arbitrator's decision or any other contentions raised by the parties in accordance with law.

G The transfer petition is disposed of accordingly.

T.N.A.

Petition disposed of.